

**United States Congressman Elijah E. Cummings**

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**SUBCOMMITTEE ON COAST GUARD & MARITIME TRANSPORTATION**

**“Challenges Facing the Coast Guard’s Marine Safety Program”**

**August 1, 2007 - 2:00 p.m.**

**Room 2167, Rayburn House Office Building**

*Statement of Chairman Elijah E. Cummings*

Earlier this week, the Subcommittee examined the management of the Coast Guard’s administrative law system, which adjudicates allegations of misconduct or negligence brought against mariners by Coast Guard investigating officers.

We heard testimony that was frankly deeply concerning. Two former Administrative Law Judges suggested that during their tenure, they worked in an atmosphere that did not support their exercise of judicial independence in the consideration of cases.

The Subcommittee’s examination of the allegations raised in that hearing is not yet finished. However, any administrative law system must not only ensure that there is no impropriety in the conduct of administrative proceedings but that there is not even the appearance of unfairness in the system.

What we learned during our hearing on Tuesday has led me – and I believe Ranking Member LaTourette – to conclude that the administrative law system that examines allegations made against

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mariners should be separated from the Coast Guard as a safeguard against the appearance of unfairness.

Our hearing today builds on Tuesday's hearing by giving the Subcommittee the opportunity to take a comprehensive look at the Coast Guard's entire marine safety program to assess whether the Coast Guard has the experience, the expertise, and the resources it needs to effectively implement this crucial program.

In addition to investigating allegations of misconduct raised against mariners, the marine safety program is responsible for investigating accidents, inspecting vessels, and issuing credentials to mariners. In short, the marine safety program is intended to ensure that all aspects of maritime transportation are as safe as they can be and that our natural resources are protected against the risks associated with the movement of goods and people on the water.

I want to thank Chairman Oberstar for his extraordinary leadership in the area of marine safety and I thank him for urging us to hold this hearing today. I also thank Ranking Member Mica and Ranking Member LaTourette for their leadership on the Committee.

Congress has been involved with maritime safety since the first Congress created the Lighthouse Service on August 7, 1789. Congress has repeatedly expanded maritime safety programs over the past two hundred years as ships and shipping practices have evolved.

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Unfortunately, over the years, Congress' actions to enhance marine safety have usually been spurred by major catastrophes – such as the grounding of the *Exxon Valdez*, which led to the enactment of the Oil Pollution Act of 1990.

Our goal today is to examine the state of the marine safety program to assess whether action needs to be taken now to strengthen this program and ensure it is prepared to effectively regulate the 21<sup>st</sup> century maritime industry BEFORE any new catastrophe occurs.

Since I became Chairman of this Subcommittee, I have heard repeatedly from ship owners and operators, port authorities – including the Port of Baltimore – and mariners regarding their concerns with the Coast Guard's marine safety program.

Mariners are concerned about the delays they encounter in obtaining the documents they need to work, while ship owners have expressed serious concerns about the ability of Coast Guard personnel to maintain their expertise in technical aspects of vessel safety given their increasing focus on implementing security measures.

The suggestion that the Coast Guard's lack of technical expertise may have contributed to fatal accidents is extremely troubling. We will examine that issue in depth as we examine the Coast Guard's response to several recent accidents, including the capsizing of the *Lady D* pontoon boat in Baltimore's Inner Harbor in March 2004 that resulted in the deaths of 5 passengers.

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During its investigation of this tragic accident, the National Transportation Safety Board found that the *Lady D* was “erroneously granted sister status by the U.S. Coast Guard to a pontoon vessel with different design characteristics.”

The NTSB then recommended that the Coast Guard promulgate revised passenger weight standards for passenger vessels.

Unlike the FAA, which quickly adopted new weight standards in less than a year after a commuter aircraft casualty in January 2003, the Coast Guard has now issued interim weight guidelines and revised operating standards but, some 3 years after the *Lady D* tragedy, has still not finalized new weight standards for all passenger vessels.

The testimony submitted by Admiral Allen today indicates that in fact the Coast Guard has 85 rulemaking processes – including some mandated by Congress – that have not yet been concluded, including those involving ballast water, dry cargo residue, salvage, towing vessel inspections, the use of Automatic Identification System transponders, and the use of electronic charts that were required by law to be on vessels by January 1<sup>st</sup> of this year.

In advance of today’s hearing, we asked the Coast Guard, mariner representatives, vessel operators, lifesaving equipment manufacturers, and related service facilities to tell us how the marine safety program is working.

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The industry witnesses we will hear from have all expressed concern about the Coast Guard's "appropriate posture" toward mariners and the industry, the Coast Guard's level of technical expertise, the oversight of lifesaving equipment, and the rotation of personnel in the marine safety program.

While I look forward to the testimony of all who are joining us today, I also want to note for the record that there were many in the maritime industry who expressed concerns to the Subcommittee but who were frankly afraid to testify for fear of retribution from the Coast Guard.

Such a situation is simply intolerable and I hope that Admiral Allen will take away from today's hearing an understanding of what the service needs to do to improve its relationship to our nation's maritime industry.

The American public believes that the Coast Guard is keeping vessels safe and protecting the marine environment. Today, we will determine whether these expectations are indeed being met – and I look forward to working with Chairman Oberstar, Ranking Member Mica, and Ranking Member LaTourette as we explore the future of this important program.